

Senate File 186 - Introduced

SENATE FILE 186
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1094)

A BILL FOR

1 An Act relating to funds transfers under the uniform commercial
2 code, and including effective date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 554.12108, Code 2013, is amended to read
2 as follows:

3 **554.12108 ~~Exclusion of consumer transactions governed by~~**
4 **~~federal law~~ Relationship to Electronic Fund Transfer Act.**

5 1. This Except as provided in subsection 2, this article
6 does not apply to a funds transfer any part of which is
7 governed by the Electronic Fund Transfer Act of 1978, 15 U.S.C.
8 § 1693 et seq.

9 2. This article applies to a funds transfer that is a
10 remittance transfer as defined in the Electronic Fund Transfer
11 Act, 15 U.S.C. § 1693o-1, unless the remittance transfer is
12 an electronic fund transfer as defined in the Electronic Fund
13 Transfer Act, 15 U.S.C. § 1693a.

14 3. In a funds transfer to which this article applies, in the
15 event of an inconsistency between an applicable provision of
16 this article and an applicable provision of the Electronic Fund
17 Transfer Act, the provision of the Electronic Fund Transfer Act
18 governs to the extent of the inconsistency.

19 Sec. 2. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
20 immediate importance, takes effect upon enactment.

21 EXPLANATION

22 SUMMARY. This bill amends Code chapter 554, Article 12, by
23 providing that its provisions apply to a "remittance transfer"
24 as defined in the federal Electronic Fund Transfer Act of 1978,
25 "EFTA", 15 U.S.C. § 1693 et seq., unless any provision of the
26 federal statute (or associated regulation) also applies.

27 BACKGROUND — ARTICLE 4A AND THE EFTA. Article 4A of the
28 Uniform Commercial Code, recommended by the National Conference
29 of Commissioners on Uniform State Laws (Uniform Law Commission)
30 and the American Law Institute, regulate the electronic
31 transfer of payment orders made through a wire service between
32 commercial parties, such as from one bank to another. By
33 contrast, the EFTA regulates electronic fund transfers
34 involving consumers (e.g., transactions using automatic teller
35 machines). In Iowa, Article 4A is codified as Article 12

1 of the Uniform Commercial Code, and Code section 554.12101
 2 provides the exception for the EFTA (i.e., transactions
 3 affecting consumers).

4 BACKGROUND — REMITTANCE TRANSFER. According to the Uniform
 5 Law Commission's official comment, its recommended amendment
 6 to Section 4A.108 is in to response to the "Dodd-Frank Wall
 7 Street Reform and Consumer Protection Act of 2010" (Public
 8 Law 111-203). That Act in part amends the EFTA, and requires
 9 the new federal Bureau of Consumer Financial Protection to
 10 adopt implementing regulations effective February 7, 2013 (77
 11 Federal Register No. 25 (February 7, 2012), p. 6194). Part of
 12 the new federal Act and its accompanying regulations create
 13 new compliance requirements to protect consumers who transfer
 14 moneys from the United States to a foreign destination (15
 15 U.S.C. § 1693 et seq.), which is referred to as a "remittance
 16 transfer". Specifically, the EFTA now defines this as an
 17 electronic transfer of funds requested by a sender (consumer)
 18 located in any state to a designated recipient that is
 19 initiated by a "remittance transfer provider" (a person or
 20 financial institution) who provides such services in the normal
 21 course of business (15 U.S.C. § 1693o-1(g)).

22 EXCEPTION CARVE OUT. While the EFTA regulates some
 23 remittance transfers, it does not address all classes of
 24 such transactions, including types of a funds transfer which
 25 have been covered under Article 4A. Therefore, when the
 26 implementing federal regulations become effective on February
 27 7, 2013, some remittance transfers will not be covered either
 28 by federal law (EFTA) or state law (Article 12 is Iowa's
 29 version of Article 4A). The bill provides that a funds
 30 transfer that is a remittance transfer but not an electronic
 31 fund transfer under the EFTA will still be governed under
 32 Article 4A (Iowa's Article 12).

33 EFFECTIVE DATE. The bill goes into effect immediately upon
 34 enactment.